

UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

United States of America

v.

ERVIN CRUZ-ORTEGA

Case No. 19-1242-M

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 18, 2019 in the county of Philadelphia in the
Eastern District of Pennsylvania, the defendant(s) violated:

Code Section

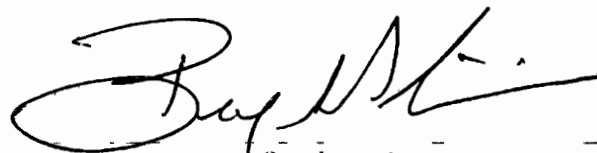
8 U S C , Section 1326(a)

Offense Description

On or about June 19, 2018, in Philadelphia, in the Eastern District of Pennsylvania, defendant Ervin Cruz-Ortega, an alien, and citizen and native of Mexico, who had previously been deported from the United States on or about April 9, 2012, was found in the United States, having knowingly and unlawfully re-entered the United States without first applying to the Attorney General of the United States or his successor, the Secretary for Homeland Security, for permission to reapply for admission

This criminal complaint is based on these facts:

See attached affidavit

☒ Continued on the attached sheet.

Complainant's signature

Bryan A Pachini, Deportation Officer, ICE

Printed name and title

Sworn to before me and signed in my presence

Date: 7/18/19

City and state:

Philadelphia, PA


Judge's signature

HON JACOB P. HART, U S Magistrate Judge

Printed name and title

19-1242-M

AFFIDAVIT

1. I, Bryan A. Pachini, am a Deportation Officer at U.S. Immigration and Customs Enforcement ("ICE") within the U.S. Department of Homeland Security ("DHS"). I have served as a Deportation Officer with ICE since April 4, 2016. As a Deportation Officer, I conduct investigations related to violations of the Immigration and Nationality Act, specifically foreign-born nationals who have been deported from the United States and subsequently re-enter the United States illegally. I am currently assigned to the ICE Enforcement and Removal Operations Philadelphia, Pennsylvania Field Office and my duties include investigating violations of Title 8 of the United States Code ("U.S.C") to include violations of immigration offenses.

2. I have prepared this affidavit in support of a criminal complaint against Ervin CRUZ-ORTEGA, ("CRUZ-ORTEGA"), because there is probable cause to believe CRUZ-ORTEGA, an alien, re-entered the United States after removal, in violation of Title 8, U.S.C. § 1326(a).

3. On July 18, 2019, I received information that CRUZ-ORTEGA had been arrested by the Philadelphia Police Department for firearms offenses and was currently in custody at the Curran Fromhold Correctional Facility ("CFCF") in Philadelphia. Based on my training and experience, I know that any time a police department or other law enforcement agency runs the fingerprints of any alien, that is an individual who is not a United States citizen or national, who has previously been encountered by ICE or another immigration agency, ICE receives electronic notification of this fact and any match to the alien's known fingerprint identification number. On July 18, 2019, I reviewed the electronic notification showing that the Philadelphia Police Department had recently run CRUZ-ORTEGA's fingerprints, which suggested that CRUZ-ORTEGA, with FBI# 267304PD3, had been encountered by the Philadelphia Police Department.

4. On July 18, 2019, I conducted a check in the National Crime Information Center (“NCIC”) database for CRUZ-ORTEGA’s criminal history, as well as his immigration history. Under the FBI number provided 267304PD3, I discovered that CRUZ-ORTEGA had a previous encounter with immigration authorities. Further checks in the Enforcement Alien Removal Module (“EARM”) database were conducted for CRUZ-ORTEGA’s immigration history in the United States. I found that CRUZ-ORTEGA had been encountered by U.S. Border Patrol Agents on April 6, 2012 for illegally entering the United States. CRUZ-ORTEGA was served with a Notice and Order of Expedited Removal. On April 9, 2012, CRUZ-ORTEGA was removed from the United States.

5. Based on my training and experience, I know that ICE maintains a file on all aliens encountered by ICE. This file, known as the Alien File (“A-File”), contains documentation relating to the alien, including his/her photograph, warrants of deportation, fingerprints, documents reflecting criminal history, documents reflecting the country of citizenship, and other documents. Each alien is assigned an identification number, referred to as the “Alien Number.” A Search of ICE databases revealed that Ervin CRUZ-ORTEGA has been assigned Alien Number 205 264 570.

6. On July 18, 2019, based on my review of DHS’s electronic databases I have made the following conclusions:

- a. CRUZ-ORTEGA is a citizen and national of Mexico.
- b. CRUZ-ORTEGA’s date of birth is [REDACTED] and this affidavit and the Complaint to which it is attached correctly reflect CRUZ-ORTEGA’s name.

c. On April 6, 2012, CRUZ-ORTEGA was processed with a Notice and order of Expedited Removal by U.S. Border Patrol Agents pursuant to Section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act, as amended.

d. The United States, pursuant to a "Warrant of Deportation/Removal," removed CRUZ-ORTEGA on or about April 9, 2012 through Douglas, AZ, back to Mexico.


e. A search of ICE databases revealed that CRUZ-ORTEGA did not seek permission of the United States Attorney General, or his successor, the Secretary of the Department of Homeland Security, to re-enter as required by 8 U.S.C. § 1360(d).

7. Based on all of the foregoing, I respectfully submit that the facts set forth in this Affidavit demonstrate that there is probable cause to conclude that Ervin CRUZ-ORTEGA illegally re-entered the United States after removal in violation of 8 U.S.C. § 1326(a). I therefore respectfully ask that the Court issue a warrant ordering his arrest for such crime.



BRYAN A. PACHINI
Deportation Officer
Immigration and Customs Enforcement

Sworn to and Subscribed Before me
This 18th day of July 2019.



HONORABLE JACOB P. HART
United States Magistrate Judge